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ETRD, KCOR, VE

SUBJECT: URBAN LANDS LAW THREATENS PROPERTY RIGHTS

Classified By: Economic Counselor Darnall Steuart for reasons 1.4
(b) and (d).

¶11. SUMMARY: On August 14, the National Assembly unanimously approved a new law that grants the Government of the Bolivarian Republic of Venezuela (GBRV) wide authority to seize underutilized urban lands to develop socialist housing projects. While the law is yet unpublished in the Official Gazette, legal analysts fear that it represents a new threat to property rights and will act as a deterrent to investment.

END SUMMARY.

RESPONSIVE GOVERNMENT

¶12. (SBU) On May 28, in a special edition of the "Hello, President" radio and television program, President Chavez ordered Public Works and Housing Minister Diosdado Cabello to draft an urban land law in response to complaints from Caracas residents that poor land quality threatened the stability of their homes. (Note: Many of the poorer residents of Caracas live in unstable homes built on the hillsides encircling the city that are vulnerable to landslides and other natural disasters. End note.) On August 14, just over two months later, the National Assembly unanimously approved the Urban Lands Law to regulate the use of urban land.

URBAN LAND IS WHATEVER WE SAY IT IS

¶13. (SBU) According to the text of the legislation, the Urban Lands Law empowers the state to take control of urban lands "suitable for the development of social housing programs." Under this broad application, the law identifies three categories of urban land subject to expropriation: abandoned urban land; undeveloped urban land; and any other land as determined by the national executive. The law further stipulates that the state has the right of preference to buy urban lands, and that the price of the land is calculated based on "the value of other urban lands with similar characteristics."

¶14. (SBU) Under the law, the local government and the "organized community" submit proposals to the Ministry of Public Works and Housing to study whether property should be classified as unused urban land. The owners are then

notified of this proceeding, and a "competent body" decides whether to expropriate the land. In the interim, the "organized community" acts as custodian of the lands in question. Once the land has been declared unused, the national executive transfers the property to the state.

GBRV HAS THE RIGHTOF PREFERENCE

15. (C) On September 30, Rafael Chavero (strictlyprotect) of the law firm Ayala, Dillon, Fernandezand Linares, told EconOff that legal systems in any countries give the government the right to epropriate private property for public or civic ue; in this sense the Urban Property law is similr to the concept of eminent domain. The differenceis that the GBRV has not always compensated landwners fairly and promptly following the expropriation of their property. "The danger is that the overnment does not pay, or it pays late, or it pys less than the value of the property," Chavero aid. He added that the process of determining the price of land using "the value of other urban lads with similar characteristics" is particularly vague, giving the GBRV broad discretion to set the price. Finally, the law does not clearly define the "organized community," which is ostensibly the organization that initiates the expropriation process, acts as custodian of the land, and determines whether it should be expropriated.

16. (C) The government's "right of preference" is also unclear, Chavero said. Chavero explained that the law may require the property owner to offer the land to the GBRV first, before receiving permission to sell it to another

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party at the same price. He predicted that this would add an additional layer of bureaucracy to the transfer of property, and to the extent that the GBRV did not respond to such requests, transfers would be delayed, or in some cases withheld indefinitely. The law would therefore affect inheritances, since a family would have to offer the property to the government before transferring title to their children, and could create legal uncertainty that would reduce investment.

COMMENT

17. (C) It remains unclear why the Urban Lands Law has not been published in the Official Gazette after it was unanimously approved by the National Assembly, although the local media has speculated that President Chavez is waiting for opposition to other contentious legislation to subside. The Urban Lands Law appears to be another attempt to exert control over private property, whether by purchasing land at preferential prices or through outright expropriation. In practice, the law not only threatens the property rights of current landowners but also represents an additional investment risk for anyone seeking to buy property in the country.

DUDDY